

## CHAPTER 346.

## OFFENSES AGAINST PUBLIC JUSTICE.

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**346.01 Perjury and subornation.** Any person, being lawfully required to depose the truth, on his oath, affirmation or declaration legally administered, who shall wilfully and corruptly swear, affirm or declare falsely to any material matter or thing in any cause or proceeding before any court or tribunal created by law, or in regard to any matter or thing respecting which such oath, affirmation or declaration is by law authorized or required, before any officer authorized to administer oaths, or before any committee of either house or of both houses of the legislature, shall be deemed guilty of the crime of perjury; and any person who shall wilfully and corruptly incite or procure another to commit the crime of perjury shall be deemed guilty of the crime of subornation of perjury, and in either case he shall be punished, if the perjury or subornation of perjury was committed on the trial of any person for a crime punishable by imprisonment for life, by imprisonment in the state prison not more than fifteen years nor less than three years; and if committed in any other cause, proceeding or matter he shall be punished by imprisonment in the state prison not more than five years nor less than two years.

**Note:** See note to 355.23, citing *Koehler v. State*, 218 W 75, 260 NW 421.

In a prosecution for perjury against the defendant who testified falsely before the grand jury that a slot machine in his possession had not been out of his house but there was evidence that the machine had been out of his possession and had been used in a tavern, the jury should have been instructed that it must find beyond a reasonable doubt that the defendant knew that the machine was used for gambling or that the person who took it had intended to so use it. *State v. Evans*, 229 W 405, 282 NW 555.

**346.02 False swearing.** Any person being lawfully required to depose the truth on his oath, affirmation or declaration, legally administered, who shall wilfully swear, affirm or declare falsely to any matter or thing in any cause or proceeding, before any court or tribunal created by law, or in regard to any matter or thing respecting which such oath, affirmation or declaration is by law authorized or required, before any officer authorized to administer oaths or before any committee of either house, or of both houses of the legislature, shall be deemed guilty of the crime of false swearing, and shall be punished therefor by imprisonment in the state prison not more than three years, or in the county jail not more than one year, or by fine not exceeding one thousand dollars.

**Note:** In proceedings to probate a will, perjury if he testifies falsely. *Stetson v. a witness who testifies before the subscribing witnesses have been sworn is guilty of* State, 204 W 250, 235 NW 539.  
See note to 29.60, citing 24 Atty. Gen. 145.

**346.03 Procuring commission of.** Any person who shall endeavor to procure or incite any other person to commit the crime of perjury, though no perjury be committed, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

**346.04 Recognizance if court suspects perjury.** Whenever it shall appear to any court of record that any witness or party who has been legally sworn or affirmed and examined, or has made an affidavit in any proceeding in a court of justice, has testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may order his arrest, stating in the order the grounds or reasons for the arrest, and such order shall stand and be taken as a criminal complaint for perjury upon which the clerk of the court shall issue a criminal warrant. Notice of the proceedings shall forthwith be given to the district attorney. The accused shall be brought before the judge issuing the order for a preliminary examination. Thereafter the procedure shall be as in other criminal cases and the provisions of chapter 361 shall apply.

**346.05 Books, etc., may be copied.** If in any proceedings in a court of justice in which perjury shall be reasonably presumed as aforesaid in section 346.04, any paper, books or documents shall have been produced which shall be necessary to be used in any prosecution for such perjury the court may order a certified copy of such books, papers or documents to be taken to be used in such prosecution; and such certified copy shall be used in such prosecution in the same manner as the original might have been.

**346.06 Bribery of officers.** (1) Any person who shall corruptly give, offer or promise to any executive, judicial, legislative, administrative or other officer of the state, or of any county, town, city, village, school district, or of other municipal corporation or subdivision therein, after his election or appointment, and either before or after he shall have been qualified or shall have taken his seat, any gift or gratuity, or any money, goods, thing in action, personal or real property, or any thing of value, or any pecuniary or other personal advantage, present or prospective, with intent to influence his vote, opinion, judgment or action upon any question, matter, cause or proceeding which may then be pending or which may by law come or be brought before him in his official capacity, and any such officer who shall corruptly accept or receive any such gift, gratuity, money, goods, thing in action, personal or real property or any thing of value, or any such pecuniary or other personal advantage, present or prospective, under any agreement or understanding that his vote, opinion, judgment or action should be thereby so influenced shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars nor less than two hundred dollars.

(2) Any person who shall give, pay or render, or promise or offer to give, pay or render to any state treasurer or to any other person any money, credit, service or benefit whatsoever, except as expressly authorized by law, by reason or in consideration of the deposit, loan or forbearance of any state moneys or funds shall be guilty of bribery as defined, and be punished as provided, in subsection (1); and in any prosecution under this subsection no witness shall be excused from answering any question on the ground that his answer may tend to criminate himself or expose him to prosecution for any crime, misdemeanor or forfeiture; but no testimony so given shall be in any manner used against the person so testifying in any criminal prosecution, except for perjury committed in giving such testimony.

**346.07 Bribing juror, referee, appraiser, etc.** Any person who shall corruptly give, offer or promise to any court commissioner, juror, arbitrator, umpire, referee or appraiser, lawfully selected or appointed, any gift, gratuity, money, goods, thing in action or any thing of value with intent to bias or influence his opinion, judgment or decision upon any question, matter, cause or proceeding pending in any court or before him, or before any inquest, or for the decision of which he has been so selected or appointed, and any such court commissioner, juror, arbitrator, umpire, referee or appraiser who shall wilfully and corruptly accept or receive any such gift, gratuity, money, goods, thing in action or any thing of value, under any agreement or understanding that his opinion, judgment or decision upon any such question, matter, cause or proceeding should be thereby so biased or influenced, shall be punished by imprisonment in the state prison not more than three years nor less than one year or by fine not exceeding five hundred dollars nor less than one hundred dollars.

**346.08 Receiving bribe by officer.** Any sheriff, constable or other officer authorized to serve legal process who shall receive from any defendant or any other person any money or other valuable thing as a consideration, reward or inducement for delaying or omitting to arrest any defendant, or to carry him before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution,

or for omitting or delaying to perform any duty pertaining to his office shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

**346.09 Bribery at elections.** (1) The following persons shall be deemed guilty of bribery at elections:

(a) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or offer, promise or promise to procure or endeavor to procure any money or valuable consideration, to or for any voter, to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of such voter having voted or refrained from voting at any election.

(b) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise or endeavor to procure any office, place of employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of any voter having voted or refrained from voting at any election.

(c) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavor to procure the election of any person to a public office, or the vote of any voter at any election.

(d) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procure, or engage, promise or endeavor to procure the election of any person to a public office or the vote of any voter at any election.

(e) Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money wholly or in part expended in bribery at any election.

(2) And any person so offending shall be punished by imprisonment in the state prison for a term of not less than six months nor more than two years; provided, that the foregoing shall not be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses authorized by law and bona fide incurred at or concerning any election.

**Note:** Offer by candidate for public office from holding such office and subjects him made to electors to serve for less than salary fixed by law is in violation of election bribery statutes and disqualifies candidate. Atty. Gen. 774.

**346.10 Same subject.** The following persons shall also be deemed guilty of bribery at elections:

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place of employment, public or private, for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person in his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; and any voter or other person so offending shall be punished by imprisonment in the county jail not less than one month nor more than one year.

**346.11 Bribery at nominating conventions and primaries.** No person shall, directly or indirectly, himself or through another, give, or promise or offer to give, or with knowledge of the same permit to be given, promised or offered, to any elector or other person any money or thing of value of any pecuniary advantage or benefit, for the purpose of inducing or influencing such elector or other person to vote for him or for any specified person at any convention or meeting or primary held for the purpose of nominating a candidate or candidates to be voted for at an election, as a nominee of such convention or meeting or primary and a candidate to be voted for at such election; nor make any such gift, promise or offer to any elector or other person for the purpose of inducing or influencing such elector or other person to sign any nomination paper for the placing of any specified name upon any primary ballot; nor ask, solicit or receive any money, thing of value or pecuniary advantage from any candidate or other person as a consideration or inducement for his vote at any such convention or meeting or primary; or for his signature to any such nomination paper; nor knowingly cause a nomination paper or papers to be signed in his behalf by more than the maximum number of qualified electors provided for his district by subdivision (5) of section 5.05. Every person violating any provision of

this section shall be punished, upon conviction thereof, by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

**346.12 Political contributions by corporations prohibited.** No foreign or domestic corporation, and no association organized under chapter 185 doing business in this state, shall pay or contribute, or offer, consent or agree to pay or contribute, directly or indirectly, any money, property, free service of its officers or employes or thing of value to any political party, organization, committee or individual for any political purpose whatsoever, or for the purpose of influencing legislation of any kind, or to promote or defeat the candidacy of any person for nomination, appointment or election to any political office. [1943 c. 500]

**346.13 Penalty.** Any officer, employe, agent or attorney or other representative of any corporation, acting for and in behalf of such corporation, who shall violate sections 346.12 to 346.16, shall be punished upon conviction by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment in the state prison for a period of not less than one nor more than five years, or by both such fine and imprisonment in the discretion of the court or judge before whom such conviction is had and if the corporation shall be subject to a penalty then by forfeiture in double the amount of any fine so imposed to be collected as other actions by forfeiture are collected and if a domestic corporation, it may be dissolved, if after a proper proceeding upon quo warranto, in either the circuit or supreme court of the state to be prosecuted by the attorney-general of the state, the court shall find and give judgment that section 346.12 has been violated as charged, and if a foreign or nonresident corporation, its right to do business in this state may be declared forfeited.

**346.14 Fines and forfeitures; district attorney.** The violation of sections 346.12 to 346.16, by any officer, employe, agent, attorney or other representative of a corporation, shall be prima facie evidence of said violation by such corporation. All fines or forfeitures recovered under any of the provisions of sections 346.12 to 346.16, shall, when collected, be paid into the proper treasury of the county for the use of the school fund, and it is hereby made the duty of the district attorney of each county to conduct prosecutions under sections 346.12 to 346.16, upon complaint as in other actions.

**346.15 A felony to aid, advise or abet violations.** Any person or persons who shall aid, abet or advise a violation of sections 346.12 to 346.16 shall be guilty of a felony and upon conviction shall be punished as in section 346.12.

**346.16 Place of trial.** Violations of sections 346.12 to 346.16 may be prosecuted in the county where such payment or contribution is made or services rendered or in any county wherein such money has been paid or distributed.

**346.17 Use of threats, etc., on elector.** Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence or restraint in order to induce or compel any person to vote or refrain from voting at any election, or who shall, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at any election, or shall thereby compel, induce or prevail upon any elector either to give or refrain from giving his vote at any election for or against any particular candidate or measure, shall be punished by imprisonment in the county jail not less than one month nor more than one year.

**346.18 Office obtained by bribery vacant.** Any person who shall obtain any office by bribery or shall have been elected to any office at any election, at which election he shall have induced or procured any elector to vote for him for such office by bribery, shall be disqualified from holding said office, and he shall be ousted therefrom, and said office shall be deemed and held vacant, to be filled by election or appointment as other vacancies, according to law.

**346.19 Corrupt means to influence legislation; disclosure of interest.** Any person who shall, directly or indirectly, give or agree or offer to give any money or property or valuable thing or any security therefor to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the legislature or before either house or any committee thereof, upon the contingency or condition of the passage or defeat of such measure, or who shall receive, directly or indirectly, or agree to receive any such money, property, thing of value or security therefor for such service, upon any such contingency or condition, or who, having a pecuniary or other interest, or acting as the agent or attorney of any person in procuring or attempting to procure the passage or defeat of any measure before the legislature or before either house or any committee thereof, shall attempt in any manner to influence any member of such legislature for or against such measure, without first making known to such member the real and true interest he has in such measure, either personally or as such agent or attorney, shall be pun-

ished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

**346.20 Lobby registry.** Every person, corporation or association which employs any person to act as counsel or agent to promote or oppose in any manner, the passage by the legislature of any legislation affecting the pecuniary interests of any individual, association or corporation as distinct from those of the whole people of the state, or to act in any manner as a legislative counsel or agent in connection with any such legislation, shall, within one week after the date of such employment, cause the name of the person so employed or agreed to be employed, to be entered upon a legislative docket as hereinafter provided. It shall also be the duty of the person so employed to enter or cause to be entered his name upon such docket. Upon the termination of such employment such fact may be entered opposite the name of any person so employed either by the employer or employe.

**Note:** This section applies only to persons employed to influence legislation and not to chairman of legislative committee of noncommercial voluntary association of newspaper publishers where such chairman is not employed by such association and does not receive compensation from it. Neither does it apply to attorneys for such league who merely advise as to pending legislation and who do not attempt to influence legislature. 26 Atty. Gen. 183.

**346.21 Legislative docket.** The secretary of state shall prepare and keep two legislative dockets in conformity with the provisions of sections 346.20 to 346.26, one of which shall be known as the docket of the legislative counsel before committees, and the other as the docket of legislative agents. In the docket of legislative counsel shall be entered the names of counsel or persons employed to appear at a public hearing before a committee of the legislature for the purpose of making an argument or examining witnesses, and also the names of any regular legal counsel of any person, corporation or association who act or advise in relation to legislation; in the docket of legislative agents shall be entered the names of all agents employed for any purpose in connection with any legislation included within the terms of section 346.20. In such dockets shall be entered the names and business address of the employer, the name, residence and occupation of the person employed, the date of employment or agreement therefor, the length of time that the employment is to continue, if such time can be determined, and the special subject or subjects of legislation, if any, to which the employment relates. Such dockets shall be public records and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the secretary of state.

**346.22 Additional entries.** Any person, corporation or association employing any legislative counsel or agent shall, whenever further subjects of legislation are introduced or arise which such counsel or agent is to promote or oppose, make or cause to be made additional entries opposite his or its name in the appropriate docket, stating such special employment and specifically referring to the petitions, orders, bills or other subjects of legislation to which the same relates, and such entries shall also be made opposite the names of such counsel or agents, in such manner that such entries shall show all the subjects of legislation in relation to which any counsel or agent is employed. No person shall appear as counsel before any committee of the legislature or of either branch thereof, or act as agent in respect to any legislation coming within the terms of section 346.20, unless his name appears upon the docket of legislative counsel or agent as employed in respect to such matter as above provided. No person, private or public corporation or association shall, directly or indirectly, employ any person as legislative counsel or agent in respect to any legislation coming within the terms of section 346.20, unless the name of such person is duly entered on the legislative docket as provided by sections 346.20 to 346.26. No person shall be employed as a legislative counsel or agent for a compensation dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with the action of the legislature, or of either branch thereof, or of any committee thereof. No person whose name is entered on the docket of the legislative counsel shall render any service as legislative counsel or agent otherwise than by appearing before a committee, as aforesaid, and by doing work properly incident thereto, or by giving legal advice in the case of regular legal counsel of corporations or associations, unless his name is also entered on the docket of legislative agents.

**346.23 Filing authority.** Legislative counsel and agents required to have their names entered upon the legislative docket shall file with the secretary of state within ten days after the date of making such entry a written authorization to act as such, signed by the person or corporation employing them.

**346.235 Lobbyists to file reports; reports to legislature.** (1) Every legislative counsel and agent required to have his name entered upon the legislative docket shall, beginning with the second Tuesday after the beginning of any regular or special session of the legislature and ending with the second Tuesday following the final adjournment of such session, file with the secretary of state a sworn statement of expenses made and

obligations incurred by himself or any agent in connection with or relative to his activities as such counsel or agent during the full preceding calendar week, except that the first statement shall be for the period between the convening of the legislature and the end of the week prior to the time of the first filing. The statement shall be made on a form prescribed and furnished by the secretary of state and shall show for each day the disbursements made or obligations incurred, which shall be listed separately for meals, refreshments, entertainment, transportation and miscellaneous, to whom paid or to be paid, the total number of persons for whom the disbursements were made or obligations incurred, the amount for personal expense, and the subject of legislation or number of each bill or resolution in connection with which such disbursements were made or obligations incurred. All disbursements and obligations listed under the heading "miscellaneous" shall be specifically itemized so as to show the purpose for which each disbursement or obligation was made or incurred. The statement shall also show the total disbursements or obligations last reported, the total for the week and the aggregate total at the end of each report period. If any such disbursement or obligation is made or incurred by an agent, the name and address of such agent shall be stated. No member or officer of the legislature shall act as such agent.

(2) Beginning with the third Tuesday following the beginning of any regular or special session of the legislature and on every Tuesday thereafter for the duration of such session, the secretary of state shall from his records report to each house of the legislature the names of legislative counsel and agents registered under section 346.20 who were not previously reported, the names of the persons whom they represent as such counsel or agent, and the subjects of legislation in which they are interested. Such reports shall be incorporated into the journal of each house. The secretary of state shall also forward to each house a copy of each statement required to be filed under subsection (1). Such copy shall be open to public inspection but shall not be incorporated in the journal unless the house so orders. This section shall apply equally to all state employes and state officials as well as to the members of the state legislature and any expenditures made or obligations incurred by any individual in behalf of any state official or employe shall be reported according to the provisions of this section.

(3) Legislative counsel who register with the secretary of state during the first week of any session of the legislature for the duration of the session shall during the first week of each month file the account required by this section. [1945 c. 565, 586; 43.08 (2)].

**346.24 Statement of expenses.** Within thirty days after the final adjournment of the legislature every person, corporation or association, whose name appears upon the legislative docket of the session, shall file with the secretary of state a complete and detailed statement, sworn to before a notary public or justice of the peace by the person making the same, or in the case of a corporation by its president or treasurer, of all expenses paid or incurred by such person, corporation or association, in connection with the employment of legislative counsel or agents, or in connection with promoting or opposing in any manner, the passage by the legislature of any legislation coming within the terms of section 346.20. Corporations and individuals within the provisions of sections 346.20 to 346.26 shall render such accounts in such form as shall be prescribed by the secretary of state, and such reports shall be open to public inspection.

**346.25 Penalty.** Any person, corporation or association violating any provision of sections 346.20 to 346.26, shall for such offense be fined not less than \$200 nor more than \$5,000. Any person employed as legislative counsel or agent who shall fail to comply with any provision of sections 346.20 to 346.26, or who shall act as legislative counsel or agent contrary to the provisions of sections 346.20 to 346.26, shall be fined not less than \$100 nor more than \$1,000, and shall be disbarred from acting in the capacity of a legislative counsel or agent for the period of 3 years from the date of such conviction. Any person who fails to make and file the statement required by section 346.235 (1) shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 6 months or by both such fine and imprisonment. Any such person who shall file a false statement shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year. It shall be the duty of the attorney-general, upon information, to bring prosecutions for the violation of the provisions of sections 346.20 to 346.26. [1945 c. 565]

**346.26 Municipalities exempt.** Sections 346.20 to 346.25 shall not apply to any municipality or other public corporation.

**346.27 Personal lobbying prohibited.** It shall be unlawful for any person employed for a pecuniary consideration, to act as legislative counsel or legislative agent, as defined by sections 346.20 to 346.26, to attempt personally and directly to influence any member of the legislature to vote for or against any measure pending therein, otherwise than by appearing before the regular committees thereof, when in session, or by newspaper

publications, or by public addresses, or by written or printed statements, arguments or briefs, delivered to each member of the legislature; provided, that before or within five days after delivering such statement, argument or brief, three copies thereof shall be deposited with the secretary of state. No officer, agent, appointee or employe, in the service of the state of Wisconsin, or of the United States, shall attempt to influence any member of the legislature to vote for or against any measure pending therein, affecting the pecuniary interests of such person, excepting in the manner authorized herein in the case of legislative counsel and legislative agents. [1941 c. 304]

**346.28 Lobbyists not to go upon the floor of either house.** It shall be unlawful for any person employed for a pecuniary consideration, to act as legislative counsel or legislative agent, as defined by sections 346.20 to 346.26, to go upon the floor of either house of the legislature, reserved for the members thereof, while in session, except upon the invitation of such house.

**346.29 Penalty.** Any person violating the provisions of sections 346.27, 346.28 and 346.29 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail, not more than six months, and by a fine not exceeding two hundred dollars; provided, however, that said sections shall not apply to legislative counsel or agents of any municipality in this state.

**346.295 Compensation for published articles on matters pending before legislature to be reported; penalty.** (1) Whenever money or other thing of value is paid, or a promise or agreement to pay money or other thing of value is given, to the owner or publisher or any editor, reporter, agent or employe of any newspaper or other periodical for the publication therein of any article, editorial or other matter favoring or opposing, or which is intended or tends to favor or oppose, any bill, resolution or other matter pending in the legislature, excepting a paid advertisement showing the name and address of the person authorizing the publication and the amount paid or agreed to be paid therefor, the owner or publisher of such newspaper or periodical shall, within ten days after such publication, file with the secretary of state a statement showing the amount of money or other thing of value paid or agreed to be paid and the name and address of the person, firm or corporation from whom such payment or agreement was received.

(2) Violation of this section shall be deemed a misdemeanor and punishable by a fine not less than five hundred dollars nor more than five thousand dollars for each offense. [1933 c. 309]

**346.30 Logrolling prohibited.** Any member of the legislature who shall, directly or indirectly, give, offer or promise to give his vote or influence in favor of or against any measure or proposition pending, or proposed to be introduced in, the legislature in consideration or upon condition that any other person elected to the same legislature will give or will promise or agree to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislature, or who shall give, offer or promise to give his vote or influence for or against any measure on condition that any other member will give his vote or influence in favor of any change in any other bill pending or proposed to be introduced in the legislature, shall be guilty of felony, and shall be punished by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the state prison not less than one year nor more than three years, or by both such fine and imprisonment.

**346.31 Executive favor.** Any member of the legislature who shall give, offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced in the legislature, or that has already been passed by either house of the legislature, in consideration of or on condition that any person, being governor of the state, shall approve or disapprove, veto or sign, or agree to approve or disapprove, veto or sign, any other measure or proposition pending or proposed to be introduced in the legislature or that has already been passed by the legislature, or either house thereof, or in consideration or upon condition that any person, being governor of this state, shall nominate for appointment or appoint or remove any person or persons to or from any office or position under the laws of this state, shall be guilty of a felony, and shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the state prison not less than one year nor more than two years, or by both such fine and imprisonment.

**346.32 Freedom of debate confirmed.** Nothing in sections 346.30, 346.31 and 346.32 shall be construed as prohibiting free discussion and deliberation upon any question pending before the legislature by members thereof, privately or publicly, nor as prohibiting, agreements by members to support any single measure pending, on condition that certain changes be made in such measure, nor shall said sections be construed as prohibiting agreements to compromise conflicting provisions of different measures.

**346.33 Attempt to aid escape.** Any person who shall convey into any prison, jail, house of correction or other like place of confinement any disguise, tool, instrument, weapon or other thing, adapted or useful to aid any prisoner to make his escape, with intent to facilitate the escape of any prisoner therein lawfully confined, committed or detained, or shall by any means whatever aid or assist any such prisoner in his endeavor to escape therefrom, whether such escape be attempted or effected or not, and any person who shall forcibly rescue any prisoner held in custody upon any conviction or charge of an offense shall be punished by imprisonment in the state prison not more than four years nor less than two years; or if the person whose escape or rescue was effected or intended was charged with an offense not punishable by imprisonment in the state prison he shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

**346.34 Aiding escape from officer.** (1) Any person who shall aid or assist any prisoner in escaping or in attempting to escape from any officer or person who shall have the lawful custody of such prisoner shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

(2) Any person, who shall aid, persuade, or entice a parolee from any of the penal or correctional institutions of this state, or a person lawfully placed on probation in this state, to escape from the custody of the legally appointed guardian having charge of such parolee or probationer, or who shall interfere with any parolee or probationer in such a manner as to cause or be likely to cause such parolee or probationer to violate the terms and conditions of his parole or probation, shall be punished by imprisonment in the county jail or state prison for a period of not more than one year, or by a fine not to exceed five hundred dollars, or both. [1931 c. 214 s. 2, 3]

**Note:** Where prisoner has effected escape, prisoner is not guilty of violating this section who removes handcuff from escaped prisoner. 29 Atty. Gen. 310.

**346.35 Allowing escape.** Any jailer or other officer who shall voluntarily suffer any prisoner in his custody upon conviction of any criminal charge or so held to answer any criminal charge to escape, he shall suffer the like punishment and penalties as the prisoner so suffered to escape was sentenced to or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged, unless such prisoner was convicted of or charged with an offense punishable by imprisonment for life, in which case he shall be punished by imprisonment in the state prison not more than twenty-five years nor less than five years.

**346.36 Escape through negligence; refusal to receive prisoner.** Any jailer or other officer who shall, through negligence, suffer any prisoner in his custody upon conviction or upon any criminal charge to escape, or shall wilfully refuse to receive into his custody any prisoner lawfully committed thereto on any criminal charge or conviction, or any lawful process whatever shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars.

**Note:** Courts of record have no power in criminal cases to review their judgments and impose lighter sentences, either during term or afterwards, after execution of original sentence has commenced. Sheriff discharging prisoner pursuant to such void court order is guilty of negligent escape under 346.36. (If sheriff discharges prisoner under court order which he knows to be void he is probably guilty of voluntary escape under 346.35.) 32 Atty. Gen. 228.

**346.37 Refusing to make arrest.** Any officer authorized to serve process who shall wilfully and corruptly refuse to execute any lawful process to him directed and requiring him to apprehend or confine any person convicted or charged with any offense, or shall wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars.

**346.38 Refusing to aid officer.** Any person, being required in the name of the state of Wisconsin by any sheriff, deputy sheriff, coroner, constable, or other officer or person authorized to require such assistance, who shall neglect or refuse to assist him in the execution of his office in any criminal case, or in the preservation of the peace, or in the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue of any person arrested upon civil process shall be punished by fine not exceeding one hundred dollars.

**346.39 Resisting officer.** Any person who shall knowingly resist any sheriff, deputy sheriff, constable, marshal, conservation warden or other ministerial officer while engaged in the lawful execution of any civil or criminal process issued by any court, body, board or officer authorized to issue the same, or in lawfully doing any act as such officer, or who shall, in any way, knowingly and intentionally counsel, advise or procure any other person to resist any such officer so lawfully engaged in the execution of such process or in lawfully doing such other act as such officer, shall be punished by imprisonment in



the county jail not more than one year or by fine not exceeding three hundred dollars.  
[1931 c. 278 s. 1]

**346.40 Convict, escape by.** (1) Any convict committed or transferred to the state prison, the prison for women, the state reformatory, or house of correction of Milwaukee county convicted of a crime punishable by imprisonment in the state prison, under sentence for a limited time, who shall escape from the lawful custody of such institution, or attempt by violence to escape, or assault the warden or other officer or person employed in any capacity in said prison, reformatory or house of correction shall be punished by imprisonment in said prison, reformatory, or house of correction not more than 10 years in addition to his former sentence.

(2) Any woman sentenced to the Wisconsin home for women who shall escape therefrom, or who shall attempt by violence to escape, or shall assault the superintendent or any other officer or employe of said institution, may be punished by imprisonment in said home for a term of not to exceed 2 years in addition to her former sentence.

(3) Any prisoner in a house of correction who escapes, while employed or while in the custody of an officer outside of said house of correction, or while confined in the Milwaukee county hospital undergoing treatment, shall be punished by imprisonment in said house of correction not more than one year nor less than thirty days in addition to the sentence he is then serving, or by a fine not exceeding one thousand dollars.

(4) Any prisoner in a county workhouse who shall escape while employed or while in the custody of an officer outside of such institution shall be punished by imprisonment in said workhouse not more than thirty days in addition to the sentence he is then serving.  
[1945 c. 239, 343]

**346.41 Permitting escape.** Any officer or other person employed in the state prison or the Wisconsin state reformatory who shall voluntarily suffer any convict confined therein to escape or shall, in any way, consent to such escape shall be punished by imprisonment in said prison or reformatory not more than twenty years.

**346.42 Unlawful privilege for convict.** Any officer or person employed in the state prison or the Wisconsin state reformatory who shall knowingly permit any convict under sentence of solitary confinement therein to be at large or out of the cell assigned him, or shall suffer any convict confined in said prison or reformatory to be at large, or allow him to be visited, conversed with or in any manner to be relieved or comforted, except as provided by law or the regulations of said prison or reformatory, shall be punished by fine not exceeding five hundred dollars.

**346.43 Delivering articles to convict.** Any officer or other person who shall deliver or procure to be delivered or shall have in his possession with intent to deliver to any convict confined in the state prison or the Wisconsin state reformatory, or shall deposit or conceal in or about said prison or reformatory, or the dependencies thereof, or in any carriage or other vehicle going into the premises belonging to said prison or reformatory, any article or thing whatever, with intent that any convict confined therein shall obtain or receive the same, or who shall receive from any convict any article or thing whatever with intent to convey the same out of said prison or reformatory, contrary to the rules or regulations and without the knowledge or permission of the warden or superintendent thereof, shall be punished by imprisonment in said state prison or reformatory not more than two years or by fine not exceeding five hundred dollars.

**346.44 Escape of persons under arrest.** Any person who may be detained or imprisoned in any police station, lockup or municipal or county jail pursuant to a lawful arrest, with or without a warrant or other process, for felony, misdemeanor or violation of any ordinance, who shall break such prison and escape, shall be punished by imprisonment in the county jail not more than 6 months or by fine of not more than \$100. Illegality of the arrest shall be a defense but in every such case the arrest shall be presumed to have been lawful unless the defendant shall establish the contrary, and mere technical irregularities in the warrant or other process, if any, shall be no defense if an offense is substantially charged therein nor shall the guilt or innocence of the defendant of the offense for which he was arrested be material. [1945 c. 239]

**346.45 Escape from county jail or workhouse.** (1) Any person who may be imprisoned, pursuant to a sentence, in the county jail or county workhouse, or who shall have been committed for the purpose of detaining him for trial for any offense not punishable by imprisonment for life, and who shall break prison and escape shall be punished by imprisonment in the county jail not more than six months.

(2) Any such prisoner under sentence who shall escape or attempt to escape while employed in prison labor outside of the prison inclosure as authorized by law shall be punished by a fine of not more than five hundred dollars or by imprisonment in the state prison or county jail not more than one year.

**Note:** Person who escapes after being placed out under contract to work may be punished under (2). 20 Atty. Gen. 1174.

**346.46 Breaking by person charged with murder.** Any person who shall be committed to prison for the purpose of detaining him for trial for an offense punishable by imprisonment in the state prison for life and who shall break prison and escape shall be punished by imprisonment in the state prison for the term of two years.

**346.47 Giving liquor to prisoners; mingling sexes.** Any sheriff, jailer or keeper of any prison or any other person who shall sell, give or deliver to any prisoner, or willfully or negligently permit any such prisoner to have any spirituous or intoxicating liquor, and any prisoner who shall use such liquor, in violation of subsection (2) of section 55.07, or who shall have in his possession in the precincts of any prison, with intent to sell, give or deliver the same to some prisoner, such spirituous or intoxicating liquor, or who shall place or keep together or knowingly permit to be kept together prisoners of different sexes, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

**346.48 Refusing to aid in making arrest.** Any person when required by any justice of the peace, upon view of any breach of the peace or other offense proper for his cognizance, to apprehend and bring before him the offender, who shall refuse or neglect to obey such justice, shall be punished by fine not exceeding one hundred dollars.

**346.49 Assuming to be officer.** Any person who shall falsely assume or pretend to be a justice of the peace, sheriff, deputy sheriff, coroner, constable, notary, policeman, attorney at law, detective, peace officer or any public officer, civil or military, and shall take upon himself to act as such, or who assumes without authority, any uniform or badge, by which such officer or person is lawfully distinguished, and in such assumed character does an act purporting to be official, whereby another is injured or defrauded, or who under the color of any process or other legal authority arrests any person or detains him against his will, or seizes or levies upon any property without a regular process or other lawful authority therefor, shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding five hundred dollars.

**Note:** There can be no accessory to offense of assuming to be officer, for crime is but a misdemeanor. Person conspiring with and aiding another in assuming to be officer and in arresting third person and extorting money for his release, sharing money, may be guilty of common-law crime of false imprisonment, common-law conspiracy, concealing offense for money, extortion, or accessory to extortion. 21 Atty. Gen. 27.

**346.50 Obstructing execution of law.** Any person who shall in any manner disguise himself with intent to obstruct the due execution of the law or with intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his duty or the exercise of his rights under the laws of the United States or of this state, whether such intent shall be effected or not, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

**Note:** No offense is committed under this section unless there is some attempt at disguise. 27 Atty. Gen. 618.

**346.51 Compounding or concealing offenses.** Any person having knowledge of the commission of any offense who shall take any money, gratuity, reward or any engagement therefor upon an agreement or understanding, express or implied, to compound or conceal such offense or not to prosecute therefor, or not to give evidence thereof, when such offense is punishable by imprisonment for life, shall be punished by imprisonment in the state prison not more than two years nor less than one year; and when such offense is punishable in a less degree shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

**346.52 Official malfeasance in preparing jury list.** Any person who shall ask or solicit any jury commissioner appointed pursuant to section 255.03, or the sheriff or other officer to select him or any other person, or place his name or the name of any other person on any list as a grand or petit juror in any court, and any such jury commissioner or sheriff or other officer who shall select such person or place his name upon any such list upon such solicitation shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

**346.53 Grand jury stenographer; violation of oath.** Every stenographic reporter and every typewriter operator who takes and violates the oath required of him by section 255.18, shall, upon conviction thereof, be punished by imprisonment in the state prison not less than one nor more than five years.

**346.54 Fine for official neglect in impaneling jury.** When, by neglect of any of the duties required in chapter 255 to be performed by any of the officers or persons therein mentioned, the jurors to be returned shall not be duly drawn and summoned to attend the court, every person guilty of such neglect shall pay a fine not exceeding twenty dollars, to be imposed by the same court, into the treasury of the county in which the offense is committed.

**346.55 Penalty upon clerk for fraud.** If the clerk of any court shall be guilty of any fraud, either by practicing on a jury box previously to a draft, or in drawing a

juror, or in returning into the box the name of any juror which had been lawfully drawn out, and drawing or substituting another in his stead, or in any other way, or in the drawing of jurors, he shall forfeit for each such offense not less than fifty nor more than five hundred dollars.

**346.56 Contempt of legislature.** Any person who shall be adjudged guilty of any contempt of the legislature of this state or either house thereof shall be deemed guilty also of a misdemeanor, and after the adjournment of such legislature may be prosecuted therefor in the county of Dane, and be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

**346.57 Attorney not to office with certain officers.** No practicing attorney at law shall have his office or place of business in the same room with any clerk of the circuit court, district attorney, circuit, county, municipal or other judge, police justice or justice of the peace, unless he is a partner of such judge, district attorney, police justice or justice of the peace, in which case he shall not practice as an attorney before such judge, police justice or justice of the peace, court commissioner or attorney in any case in which it is the duty of such district attorney to appear or prosecute for the state; except that the law partner of any district attorney may, at the request of the district attorney, without fee or compensation therefor, assist the district attorney in the prosecution of any case on the part of the state; and any such attorney who shall violate the above provisions or any of them, and any such clerk, judge, district attorney, police justice or justice of the peace who shall knowingly permit any such violation shall be punished by fine not exceeding one hundred dollars.

**346.58 Suppressing will.** Any person who shall wilfully suppress or secrete any last will and testament of a person then deceased or who, having the custody of any such will and testament, shall wilfully fail or neglect to produce and deliver the same to the judge of the county court having jurisdiction of its probate within a reasonable time after the death of the testator thereof, with intent to injure or defraud any person interested therein, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

**346.59 Injuring, or taking animal from, pound.** Any person who shall wilfully injure any public pound maintained by any town, city or village or shall wrongfully and forcibly take, drive or release therefrom any animal lawfully confined therein shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding fifty dollars.

**346.60 Unauthorizedly acting as justice.** Any person who shall act as a justice of the peace, knowing that he is not qualified so to act according to law, shall be punished by fine not exceeding five hundred dollars.

**346.61 Officers not to buy claims to sue.** Any justice of the peace, police justice or constable who shall, directly or indirectly, buy or be interested in buying any bond, note or other demand or cause of action for the purpose of commencing any action thereon before a justice of the peace or police justice, or who shall, before or after action brought, lend or advance or agree to lend or advance or procure to be lent or advanced any money or other valuable thing to any person in consideration of, or as a reward for or inducement to, the placing or having placed in the hands of such justice or constable any debt, demand or cause of action whatever for prosecution or collection, and any justice of the peace who shall purchase, directly or indirectly, or be interested in the purchase of any judgment rendered by him or of any witness or jury fees allowed in any case tried before him shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars, and the sentence therefor shall operate as a forfeiture of his office.

**346.62 Suits on claims for collections.** Any person who holds the office of judge of any court, justice of the peace or police justice who shall, directly or indirectly, bring or cause to be brought, either by himself, his agent or any confederate, any action or proceeding in his court or the court of which he shall be such judge or justice upon any claim, account or demand placed in his hands as agent or attorney for collection shall be punished by fine of not less than five dollars nor more than one hundred dollars, and shall also be liable in a civil action to any person against whom he may bring or cause such action to be brought for the full amount of damages and costs recovered in such action upon such claim, account or demand.

**346.63 Alteration, etc., of records.** Any person who shall feloniously, wilfully and maliciously, with intent to injure or defraud any person, private, public or municipal corporation or the public or to gain an unlawful advantage for himself or any other person

alter, mutilate or destroy any records, files or papers of any court or any records, files or papers whatever shall be punished by imprisonment in the state prison not exceeding two years or by fine not exceeding one thousand dollars, or by both fine and imprisonment; provided, that this section shall not affect the provisions of section 343.68.

**346.64 False corporation reports.** Any person who shall file any statement required by section 180.08 or section 226.04 of the statutes which shall be false in any respect shall be subject to the penalty provided by section 346.02 of the statutes. [1939 c. 134]